

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JENNIFER RODRIGUEZ; AND, JOHN
 TAURO, INDIVIDUALLY AND ON
 BEHALF OF ALL OTHERS SIMILARLY
 SITUATED,

Plaintiffs,

vs.

ALLIED INTERSTATES, LLC,

Defendant.

CASE NO. 13cv0388 DMS (JMA)

ORDER (1) DENYING PLAINTIFF'S *EX PARTE* MOTION FOR EXCLUSION OF EVIDENCE AND FOR SANCTIONS PURSUANT TO F.R.C.P. 37 AND (2) CONTINUING BRIEFING SCHEDULE AND HEARING DATE ON MOTION FOR CLASS CERTIFICATION

[Docket No. 54]

This case comes before the Court on Plaintiff's *ex parte* motion to exclude certain Declarations submitted in support of Defendant's opposition to Plaintiff's motion for class certification. Defendant filed an opposition to the motion. The Court heard argument on February 5, 2014. Matthew Loker appeared on behalf of Plaintiff, and Brooks Brown appeared on behalf of Defendant.

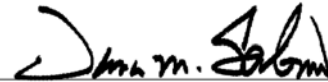
After reviewing the parties' briefs and hearing argument from counsel, Plaintiff's motion to exclude the Declarations is denied. Although Defendant did not identify the Declarants prior to filing its opposition to the motion for class certification, it did supplement its discovery disclosures with that filing. Discovery is still open, thus Plaintiff has the opportunity to take the necessary discovery from the Declarants. Furthermore, Defendants identified the Declarants and obtained testimony from them in response to Plaintiff's motion for class certification. Under these circumstances, Defendant did not violate Federal Rule of Civil Procedure 26, and thus exclusion of the evidence is unwarranted.

1 In light of this ruling, the Court grants Plaintiff an opportunity to take the depositions of the
2 Declarants. The depositions shall be completed by **March 11, 2014**, and shall take no more than one
3 eight-hour day. Counsel should meet and confer on the most efficient and cost-effective way to handle
4 these depositions, *e.g.*, by video or telephone. The Court denies without prejudice Plaintiff's request
5 for costs associated with these depositions. If Plaintiff believes costs are warranted, she may file a
6 motion for monetary sanctions per the Local Rules.

7 To enable Plaintiff to take the discovery referenced above, the Court hereby continues the
8 deadline for Plaintiff to file her reply brief on the motion for class certification. Plaintiff's reply shall
9 now be filed on or before **March 25, 2014**. The hearing on Plaintiff's motion is continued to **April**
10 **4, 2014, at 1:30 p.m.**

11 **IT IS SO ORDERED.**

12 DATED: February 5, 2014



HON. DANA M. SABRAW
United States District Judge